

Calendar No. 1942

82D CONGRESS }
2d Session }

SENATE

{ REPORT
No. 2019

TERMINAL WAREHOUSE CO.

JULY 1 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5004]

The Committee on the Judiciary, to which was referred the bill (H. R. 5004) for the relief of Terminal Warehouse Co., having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$3,287.34 to Terminal Warehouse Co., of Philadelphia, Pa., in full settlement of all claims against the United States, which sum represents the value of storage space occupied by certain imported merchandise which was voluntarily abandoned to the Government by the consignee under the provisions of section 563 (b), Tariff Act of 1930, as amended, and which was subsequently stored by the said corporation in its bonded warehouse at Philadelphia, for account of the Government, pending its disposition by the Government.

STATEMENT

The facts in this case are fully discussed in the Treasury Department report which is herewith set forth in full.

TREASURY DEPARTMENT,
Washington, November 6, 1951.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of August 13, 1951, and its enclosures of copies of bills H. R. 5004 and 5005 introduced by Mr. Granahan on July 30, 1951, for the relief of the Terminal Warehouse Co.,

Philadelphia, Pa. You request a statement of the views of the Treasury Department on this proposed legislation.

The bills relate to certain storage charges which accrued on various lots of imported merchandise stored in a customs bonded warehouse at Philadelphia operated by the above-named company as proprietor. As the facts in connection with the several lots covered by each bill are different, separate reports are being submitted on the two bills. This report is submitted with reference to those lots covered by bill H. R. 5004.

Bill H. R. 5004 authorizes and directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to the Terminal Warehouse Co., the sum of \$3,287.34. It is stated in the bill that:

"Such sum represents the value of storage space occupied by certain merchandise said corporation was required to keep in its bonded warehouse, pending payment of customs duties by the consignee. Upon failure of said consignee to pay such customs duties, the collector of customs seized the merchandise and, after some months' delay, sold it to satisfy the Government's claim * * *"

A copy of the bill was referred to the collector of customs at Philadelphia for report. There are enclosed for your information a copy of his reply dated September 20, 1951, and a copy of the storage bill referred to therein. There are also enclosed for your information copies of two letters, dated August 18, 1948, and December 9, 1949, referred to in the collector's reply.

From the collector's report and other correspondence in the files of the Bureau of Customs, it appears that bill H. R. 5004 relates to three lots of Portuguese brandy in bottles (fifths), packed 12 bottles to the case, imported in April and May 1944 consigned to the Imported Liquors Co., and that, as entry thereof was not made within the time required by law and regulation, they were treated by the collector as unclaimed and sent by him to the bonded warehouse of the Terminal Warehouse Co. for storage at the risk and expense of the importer until proper entry was made. Subsequently, the three lots were entered by the importer for warehousing under Philadelphia entries Nos. 1961, 2087, and 2188, dated February 20, March 8, and March 22, 1945, respectively, and were permitted to remain thereafter in the said warehouse.

It further appears that two extensions of the statutory 3-year warehousing period of 1 year each were granted by the collector under the provisions of Treasury Decision 50967, as amended; that within the period of the second extension in the case of each lot, the importer filed an application to voluntarily abandon the lot to the Government under the provisions of section 536 (b). Tariff Act of 1930, as amended, in order to be relieved of its liability for the duties and internal-revenue taxes thereon; that these applications were concurred in by the warehouse proprietor as required by the customs regulations; and that the applications were accepted by the collector on May 2, 1949.

It is deemed advisable to state here that it is considered that on voluntary abandonment such as is provided for in section 563 (b), supra, as amended, title to the merchandise concerned vests absolutely in the Government, and rulings have been made by the Bureau of Customs to that effect. It may be stated also that the customs regulations provide in substance that, if such merchandise is sold, no part of the proceeds shall be returned to the importer.

It further appears that, following the acceptance of the abandonment applications on May 2, 1949, the collector (in accordance with the customs regulations) reported the brandy to the Bureau of Federal Supply, General Services Administration, Washington, D. C., through the Bureau of Customs, for instructions as to its disposition, and that the collector was authorized in August 1949 to dispose of the brandy by sale to the highest bidder. Invitations to bid on the three lots and various other lots in a similar status were sent to a number of potential purchasers. Three bids were received, and they were submitted by the collector to the Commissioner of Customs for advice as to which bid should be accepted. In a letter dated December 9, 1949 (a copy of which is enclosed), the collector was instructed to accept the bid of the Dundalk Liquor Co., Baltimore, Md., as its bid appeared to be the one most advantageous to the Government, and sale was accordingly made to that company. The terms of sale permitted the company to transfer the brandy from Philadelphia to its bonded warehouse at Baltimore for filtering, rebottling, and repacking there under customs supervision, and then to withdraw it for consumption upon payment of internal-revenue tax (at the rate of \$21.60 per case) upon the quantity actually obtained by the manipulation at Baltimore and withdrawn for consumption, plus 36 cents per case, and the brandy

was withdrawn from the warehouse of the Terminal Warehouse Co. at Philadelphia in February 1950 for transfer by bonded carrier to the purchaser's bonded warehouse at Baltimore.

Between the time of their abandonment in May 1949 and the time of their withdrawal in February 1950 for transfer to Baltimore, the three lots in question remained in storage in the warehouse at Philadelphia for account of the Government inasmuch as title thereto became vested in the Government by virtue of the abandonment. According to a bill furnished to the collector by the Terminal Warehouse Co. (a copy of which is enclosed herewith) the storage charges which accrued during this period amounted to \$3,287.34, and they have not been paid.

From the foregoing it will be seen that that portion of bill H. R. 5004 quoted on page 1 of this letter does not accurately show how the storage charges accrued. If this portion of the bill were amended to read as follows, it would more accurately show how the charges accrued:

"Such sum represents the value of storage space occupied by certain imported merchandise which was voluntarily abandoned to the Government by the consignee under the provisions of section 563 (b), Tariff Act of 1930, as amended, and which was subsequently stored by the said corporation in its bonded warehouse at Philadelphia, for account of the Government, pending its disposition by the Government."

The Treasury Department considers the claim of the Terminal Warehouse Co. as just and reasonable but there does not appear to be any authority under which it may be paid. The Department would, therefore, not be opposed to the enactment of bill H. R. 5004 into law if it were amended as suggested herein.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

The bill as passed by the House of Representatives makes the amendments suggested in the above report.

After a study of the facts, the committee agrees with the conclusions reached by the Treasury Department and recommends that the bill H. R. 5004 be considered favorably.

Additional information is contained in House Report 1951, which is included herein by reference.

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PUBLISHED WEEKLY
Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents.

Entered as Second-Class Matter, October 3, 1917, under Post Office No. 384, at Chicago, Ill., under Act of October 3, 1917. Postage paid at Chicago, Ill., and at additional mailing offices.

Acceptance for mailing at special rate of postage provided for in Act of October 3, 1917, authorized on July 1, 1920.

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